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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,604	08/28/2003	Mami M. Hurwitz	A8650	5280

7590 08/11/2004  
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EXAMINER	
SAWHNEY, HARGOBIND S	
ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/649,604

Applicant(s)

HURWITZ, MARNI M.

Examiner

Hargobind S Sawhney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/28/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The preliminary amendment filed on August 28, 2003 has been entered.

Accordingly:

- The specification has been amended;
- The title of the disclosure has been replaced with a new title;
- Claims 1-4 have been cancelled; and
- New claims 5-18 have been added.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Totty et al. (US Patent No.: 5,730,079).

Regarding Claim 5, Totty et al. ('079) discloses a boat 8 (Figure 8, column 1, line 63, and column 2, lines 1-3) including at least one electroluminescent lamp 5 (Figure 1, column 2, line 19) attached on an outer surface (Figure 8) of the boat. In addition, Totty

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et al. ('079) teaches the electroluminescent lamp attachable to a small vessel, canoe, rowboat, motorboat and yachts or sails or oars (Figure 8, column 1, line 64, and column 2, lines 1-3) for low-light and no-light conditions.

Regarding claim 6 and 8, Totty et al. ('079) discloses floatation structure – boat or other water craft identified above– 8 (Figure 8, column 1, line 63, and column 2, lines 1-3) including at least one electroluminescent lamp 5 (Figure 1, column 2, line 19) attached on an outer surface of the boat.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 10-12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Totty et al. (US Patent No.: 5,730,079).

Regarding Claims 7 and 10-12, Totty et al. ('079) does not teach the flotation structure being a dinghy, and an electroluminescent lamp affixed to a dinghy, a jet-ski, a marine rescue vehicle, or a raft.

It has been held that a recitation with respect to the manner in which a claim apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitation.

Regarding Claim 16, discloses a boat including at least one electroluminescent lamp attached on an outer surface of the boat. However, Totty et al. ('079) does not teach the electroluminescent lamp being affixed to a railing structure installed on the boat body.

On the other hand, the flotation structures disclosed by Totty et al. ('079) - including boats, dinghy, and motorboat- normally have railing structures well known in the marine vehicle art. In addition, Totty et al. ('079) teaches an electroluminescent lamp 5 (Figure 1, column 2, line 19) movably attachable on any conventional mounting (Figure 1, column 2, lines 6 and 7) on an outer surface (Figure 8) of the boat

It would be have been obvious to one of ordinary skill in the art at the time of the invention to recognize the flexibility of mounting the electroluminescent lamp, and apply this teaching to mount the luminescent lamp on the railing of the boat for safety and convenience of the occupants.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Totty et al. (US Patent No.: 5,730,079) in view of Zei (US Patent No.: 4,622,623).

Totty et al. ('079) discloses a boat including at least one electroluminescent lamp attached on an outer surface of the boat. However, Totty et al. ('079) does not teach the electroluminescent lamp being recessed in the outer surface of the boat.

On the other hand, Zei ('623) discloses a electroluminescent lamp (Figure 2) being recessed in the outer surface of the boat (Figures 1,2 and 6, abstract, column 2, lines 35-43).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the outer surface of the boat of Totty et al. ('079) by providing recess housing an electroluminescent lamp as taught by Zei ('623) for the benefits and advantages of reducing overall dimensions and gaining higher reliability in sever operating conditions.

7. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over La Vasseur (US Patent No.: 4,055,174) in view of Chein et al. (US Patent No.: 5,570,945).

Regarding Claim 13, La Vasseur ('174) discloses an immersible body 1 (Figure 1). However, La Vasseur ('174) does not teach the immersible body having an electroluminescent lamp positioned beneath a transparent or semi-transparent layer.

On the other hand, Chein et al. ('945) discloses an electroluminescent lamp 10 (Figure 1, column 2, lines 24 and 25) recessed in the outer surface of a safety vest 40 (Figure 1).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the outer surface of the immersible body of La Vasseur ('174) by providing the electroluminescent lamp as taught by Chein et al. ('945) for the benefits and advantage of safety and visibility during marine operations.

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Regarding claims 14 and 15, La Vasseur ('174) in view of Chein et al. ('945) discloses immersible apparatus further including a diving fin 12 and goggles 54 (La Vasseur, Figure 1).

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Totty et al. (US Patent No.: 5,730,079) in view of Kickert et al. (US Patent No.: 6,082,282).

Regarding Claims 17 and 18, Totty et al. ('079) does not specifically teach a sail structure including a mast and a boom. On the other hand, Kickert et al. ('282) discloses a sail structure 1 including a mast 2 and a boom 3 (Figure 1, abstract).

Thus, regarding claims 17 and 18, it would be have been obvious to one of ordinary skill in the art at the time of the invention to recognize a need for a sail structure with a boom and a mast as taught by Kickert et al. ('282) for stable and controlled sailing of the sail boat of Totty et al. ('079).

### ***Conclusion***

9. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lekson (U.S. Patent No. 6,190,027 B1), Evans (U.S. Patent No. 5,495,401), Hassler, Jr. (U.S. Patent No. 4,954,931), Johnson et al. (U.S. Patent No. 4,947,293), and Moore et al. (U.S. Patent No. 4,740,870)

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Each of the above-indicated prior arts discloses an adjustable mounting structure for an electroluminescent lamp for a marine craft comprising some of the claimed features claimed by the applicant.

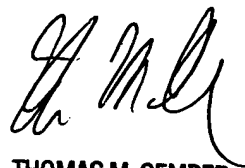
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571-272-2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306/7724 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2956.

HSS

8/6/2004



THOMAS M. SEMBER  
PRIMARY EXAMINER